

minimum wage laws if the sum paid to the employee, when divided by the total number of hours worked, meets or exceeds the applicable minimum hourly wage rate?

This appears to be correct. Courts have generally held that an employer meets federal minimum wage requirements if the total weekly wage paid is equal to or greater than the number of hours worked in the week multiplied by the statutory minimum rate.

4. Would a motor carrier employee loading a truck have to be compensated for that time as hours worked under federal law? Does anything in Sec. 611 alter the conclusion?

Pursuant to the federal minimum wage requirements, covered employers must pay employees the applicable minimum wage for all compensable hours worked. The Supreme Court has held that activities that are an "integral and indispensable part of the principal activities for which covered workmen are employed" are compensable. At least one federal appellate court has found that loading a truck is an integral and indispensable part of the principal activity for which a truck driver is employed (driving a truck), and thus is compensable. Section 611, by its terms, specifies circumstances wherein state laws, regulations, or "other provision[s] having the force and effect of law" are preempted by federal law. As such, it does not appear that section 611 would alter the determination of whether time spent loading a truck is compensable under federal law.

5. Under California law, would a motor carrier have to pay a driver for the mandated 10-minute rest break? If a driver were to take a rest break or any other type of break of 10 minutes, would a motor carrier have to pay the driver for that time under federal law? If Sec. 611 were enacted, would the requirement under federal law still apply?

Under California law, motor carriers are required to provide employees with paid 10-minute rest breaks for every four hours worked. Under federal law, employer-provided breaks that are between 5 and 20 minutes in duration are generally compensable. Section 611, by its terms, specifies circumstances wherein state laws, regulations, or "other provision[s] having the force and effect of law" are preempted by federal law. As such, it does not appear as though section 611 would alter the determination of whether a 10-minute break is compensable under federal law.

6. Does California Labor Code §226.2 apply to independent contractors or only to employees?

By its terms, California Labor Code §226.2 (Section 226.2) applies to "employees." Given the time constraints required to respond to your request, and the methodology used to search for relevant cases, CRS could find no case law interpreting Section 226.2 that discusses its potential applicability to independent contractors.

7. Would Section 611 preempt state meal and rest break laws, like California's, as applied to motor carriers?

Section 611 would preempt any state laws that prohibit employees whose hours of service are regulated by the Department of Transportation (DOT) under 49 U.S.C. 31502 "from working to the full extent permitted or at such times as permitted under [49 U.S.C. §31502]." Section 611 would also preempt any state laws that "impos[e] any additional obligations on motor carriers if such employees work to the full extent or at such times as permitted" by DOT regulations issued pursuant to 49 U.S.C. §31502, which permits DOT to prescribe requirements for the qualifications and maximum hours of service of motor carrier employees. Thus, any state meal or break laws that impose

more stringent requirements on motor carriers than DOT's meal or break regulations for motor carriers, found at 49 C.F.R. Part 395, would seem to be preempted by Section 611. This interpretation of the legislative language would appear to be consistent with the legislative intent behind Section 611.

Mr. KIRK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FISCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mrs. FISCHER. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FISCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RUBIO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ZIKA VIRUS

Mr. RUBIO. Mr. President, I am here to talk about two separate topics today. The first is the Zika virus. I am encouraged that in the last 24 hours, we finally seem to have found some action here in Congress in dealing with the Zika virus. We not only have one, we have three separate proposals that will be introduced to deal with Zika. We will continue to work on and debate these proposals next week.

About 5 weeks ago, I met with Federal, State, and local health officials in Miami and came out in support of the President's emergency funding request to deal with Zika. Since then, I have come before the Senate on numerous occasions to call for action. I have stated my belief that there shouldn't be anything divisive with this. Zika is a public health emergency that sooner or later will impact the vast majority of the United States because this is a virus transmitted by mosquitoes that are only going to become more prevalent as the weather heats up and because our people routinely travel to and from the island of Puerto Rico, the most impacted community in the entire United States.

When I spoke here yesterday, the count of people infected in Florida stood at 109. Since then, just 24 hours later, it has become 112. One-hundred and twelve Zika cases is the most of any State in the Union. Of the three

new cases in Florida, two were in Volusia County and one was in Orange County.

I have said repeatedly that Congress should not allow politics to delay action on Zika. One issue we have been encountering is the desire to offset the spending. I made it clear that if we can offset the spending and find the money somewhere else in the budget to pay for what it is going to cost to deal with Zika, we should do it, but that in times of public health emergencies, just like natural disasters, we shouldn't delay acting while we figure out and try to agree on what we are going to cut from other parts of the budget.

Another issue we have encountered is whether we do this through the normal process that is going on or fund it as an emergency spending bill. Again, I am open to either one of those approaches. But back in the real world, people infected by this and their families, who have already been impacted by this, don't have the time for us to figure all of this out; they just believe, as I do, that we need to get going here and get something done.

I have said that we should deal with this issue fully and that the \$1.9 billion requested so far may not even be enough when it is all said and done. But I believe there is no one here who wants to get caught in a situation where it is August and people are back in their States, maybe even campaigning for reelection, and have to scramble back here in the middle of the summer to come up with solutions when it gets hotter and there are more mosquitos and when the conditions are ripe for more people to be impacted by Zika.

I commend Senator NELSON, my colleague from Florida. I especially commend Senators MURRAY from Washington and BLUNT from Missouri and others who are taking this seriously and trying to come up with a solution and a way forward.

This is indeed a devastating disease. It has taken lives throughout our hemisphere, and the way it impacts unborn children alone should call us to action. Let's deal with this now, and let's protect our people. There is no reason that every proposal to address Zika cannot be bipartisan and earn broad support.

I am hopeful that we can reach a final outcome that fully addresses the problem. I am hopeful we will see some meaningful action on the Zika public health emergency very soon, including the American citizens in Puerto Rico who have been most impacted so far, and that is one of the reasons I plan to introduce—along with my colleague from Florida, Senator NELSON—an amendment to provide the full \$1.9 billion request to fight the Zika virus. The strain on Puerto Rico's health system from Zika must be addressed, and this is the only proposal so far that tries to fully deal with the unique challenges Puerto Rico faces with the Zika virus.